

EXHIBIT 2

1 UNITED STATES DISTRICT COURT

2 SOUTHERN DISTRICT OF TEXAS

3 HOUSTON DIVISION

4 IN RE: ALTA MESA)

5 RESOURCES, INC.,) CASE NO. 4:19-cv-00957

6 SECURITIES LITIGATION)

7
8
9
10 *****

11 VIDEOTAPED ORAL DEPOSITION OF

12 JOHN P. FIEBIG

13 NOVEMBER 16, 2023

14 *****
15
16

17 On the 16th day of November, 2023, at 8:59 a.m.,
18 the videotaped oral deposition of the above-named
19 witness was taken at the instance of the Class
20 Plaintiffs, before Michelle L. Munroe, Certified
21 Shorthand Reporter in and for the State of Texas, at
22 Kirkland & Ellis LLP, 4550 Travis Street, Suite 1200,
23 Dallas, Texas, pursuant to Notice and the agreement
24 hereinafter set forth.
25

[PAGES OMITTED]

1 Andersen.

2 So am I correct in reading this that your
3 first job out of Oklahoma State University was at
4 Arthur Andersen?

5 A. That's correct.

6 Q. Okay. And thereafter you were employed by
7 Ernst & Young; is that correct?

8 A. Yes, as a partner.

9 Q. Okay. And you provide some bullet points
10 as to the work you did in both firms as an audit
11 partner and a senior audit manager; is that correct?

12 A. That's correct.

13 Q. Would you agree with me that none of the
14 bullet points involved forensic accounting work?

15 A. That's correct.

16 Q. And tell me, what is your understanding as
17 to the difference between auditing and forensic
18 accounting?

19 A. I think it's generally the -- the purpose
20 of the -- of the procedures you're performing, the
21 purpose of the engagement in terms of, while it
22 includes a lot of the same type of principles,
23 auditing has its own standards, forensics has its,
24 but they're all kind of in the same area of
25 expertise, I think, as it relates to identifying,

1 evaluating evidence and information.

2 Q. Did you do any forensic accounting work at
3 Arthur Andersen?

4 A. I don't believe so.

5 Q. How about at Ernst & Young?

6 A. No.

7 Q. In your time at Arthur Andersen and Ernst
8 & Young, for the audits that you conducted for
9 various public and private companies, wasn't it true
10 that, in general, you relied upon the public or
11 private company that you audited to provide you with
12 all the information, materials in which you based
13 your audit on?

14 A. I think in general that's correct, that we
15 would have our list of items that we requested from
16 them, and then we would expect them to provide the
17 information that we had requested.

18 Q. You didn't have subpoena power with
19 respect to any of your audit clients, right?

20 A. No.

21 Q. Okay. And you didn't have access during
22 any of the audits you participated in to nonpublic
23 documents produced or in litigation involving the
24 audit client, did you?

25 A. I'm sorry, I didn't hear the first part of

[PAGES OMITTED]

1 documents. But the analysis and opinions within the
2 report are mine.

3 Q. And who actually wrote the report?

4 A. It was a combination of me and some of the
5 staff from Cornerstone that worked together on it.

6 Q. And who at Cornerstone participated in
7 drafting the report?

8 A. I would say primarily JP Poissant, Steve
9 McBride, and then Kelly -- they're on the list of
10 names. I don't always remember their last name.

11 Q. Let's turn to paragraph 1 of your report.
12 And this indicates what your scope of engagement was
13 as an expert, correct?

14 A. Yes.

15 Q. And it says here that, I have been
16 retained as an independent expert to evaluate and
17 respond to financial accounting and reporting
18 opinions expressed by Mr. D Paul Regan, CPA/CFF, in
19 his expert report dated August 31, 2003.
20 Specifically I have been asked to evaluate
21 Mr. Regan's following opinions. And then it lists
22 out Mr. Regan's opinions.

23 Is it correct that you never conducted
24 your own independent analysis as to the accounting
25 matters at issue in this litigation?

[PAGES OMITTED]

1 disclosures after the close of business combination
2 were, in fact, materially misleading to investors;
3 is that correct?

4 A. That's correct.

5 MR. NASKO: Object to form.

6 Q. And you have provided no opinion as to
7 whether the statements made by defendants violated
8 the federal securities laws; is that correct?

9 MR. NASKO: Object to form.

10 A. No.

11 Q. In paragraph 32 of your report, you state
12 that Mr. Regan acknowledges that his work in this
13 matter is governed by the American Institute of
14 Certified Public (sic) Statement for Forensic
15 Services of the AICPA forensic standards.

16 To be clear, do you also acknowledge that
17 the AICPA forensic standards are the operative
18 accounting principles and standards with respect to
19 both Mr. Regan's report and yours?

20 A. Yes.

21 MR. NASKO: Object to form.

22 Q. How are the AICPA forensic standards
23 different than the accounting -- than the auditing
24 standards?

25 A. The forensic standards are fairly broad

[PAGES OMITTED]

1 A. I believe that's correct.

2 Q. Are you a member of the AICPA's Forensic
3 and Valuation Services section?

4 A. I am not.

5 Q. Are you a CFF?

6 A. No.

7 Q. And why not?

8 A. I haven't gone through the certification
9 process.

10 Q. What experience do you have applying SSFS?

11 A. Generally within my expert engagements
12 that I have performed while with ADIGEO.

13 Q. In your role at the PCOB, did you ever
14 analyze whether an accountant had appropriately
15 applied SSFS?

16 MR. NASKO: Object to form.

17 A. I don't believe so, no.

18 Q. In your role at Arthur Andersen, did you
19 ever perform an engagement pursuant to SSFS?

20 A. Not that I can recall.

21 Q. At Ernst & Young?

22 A. No.

23 Q. Are you familiar with the AICPA's Forensic
24 and Valuation Services, which I'll abbreviate as
25 FVS, practice aids?

1 A. I don't know that I have seen them
2 recently, no.

3 Q. Can you name any FVS practice aids?

4 A. Not off the top of my head.

5 MR. NASKO: Object to form.

6 Q. Have you ever attended the AICPA's
7 Forensic and Valuation Services national conference?

8 A. No. I attend the annual AICPA and SEC
9 update and the audit ENGAGE conference, which is a
10 large breadth of experience for everybody within the
11 AICPA. They may -- I don't know but what they may
12 offer those types of courses in that because it's --
13 every practice that the -- basically the AICPA
14 members are in. So I don't know if I have ever
15 attended one of their sessions or not if they're
16 part of that, so...

17 Q. You don't recall one way or the other ever
18 having attended a session of the Forensic and
19 Valuation Services national conference?

20 A. No.

21 Q. Okay. Have you ever attended any
22 state-based forensic accounting conferences?

23 A. No.

24 Q. Have you ever spoken at a forensic
25 accounting conference?

1 A. No.

2 Q. Given that we all agree that the SSFS are
3 the appropriate standards to apply with regard to
4 Mr. Regan's report, can you tell me what the SSFS
5 standards for the CPA regarding the quantum and
6 quality of data that the CPA should obtain in coming
7 to any conclusion?

8 MR. NASKO: Object to form.

9 A. The quantum and quality?

10 Q. Of the data that the CPA should obtain in
11 coming to any conclusion.

12 What is the standard with respect --

13 A. I think it's within the sufficient
14 relevant data, paragraph 6 of the standard, would --
15 generally that would be the principle you would
16 apply.

17 Q. You're talking about the fourth bullet
18 point on that page?

19 A. That's correct.

20 Q. And that's under subsection Standards for
21 Forensic Services, correct?

22 A. That's correct.

23 Q. Which contains four bullet pointed
24 standards, correct?

25 A. Correct.

[PAGES OMITTED]

1 answered.

2 A. In this case, I would say yes, it is.

3 Q. And what's the basis for that opinion?

4 A. In terms of determining -- in order to
5 have a basis for the opinion, there is a level of
6 diligence and understanding that you have to have of
7 the underlying aspect.

8 As I list in my report, you know, in terms
9 of being able to understand, it can't just be a, you
10 know, retrospective look back and say, okay, well,
11 they didn't get there, and here is an email that
12 said this, that, or the other.

13 Without providing the context, if you
14 will, of what those mean within the determination
15 and development of the projections themselves and,
16 you know, without that understanding, it calls into
17 question really the relevance of what some of these
18 other emails and items that he pointed to were from
19 his -- from the perspective of his evaluation.

20 Q. Just to be clear, then, are you saying
21 that the standards require -- when the standards
22 refer to sufficient relevant data, that they mean a
23 comprehensive -- a comprehensive analysis of the
24 data?

25 MR. NASKO: Object to form.

1 A. Again, in this situation, I believe so.

2 Q. Not just -- I'm talking generally, not
3 just this situation.

4 A. It's a principles-based standard, and I
5 think that you apply that principle and -- within
6 the situation. You know, having been at the PCOB
7 for so many years and the auditing standards were
8 principle based, not prescriptive as the accounting
9 standards sometimes are, you have to have experience
10 with saying, okay -- or maybe even a comfort level
11 with what a principle-based standard is to say, yes,
12 that broad -- that broad principle or that very
13 clearly stated principle, you know, is something
14 that within those two sentences is not meant to be
15 limiting as to -- as to what a CPA would need to do
16 in order to apply it.

17 Q. Do you derive any support for the view
18 that a sufficient relevant data equals a
19 comprehensive analysis of the data from any FVS
20 forensic accounting practice aids?

21 MR. NASKO: Object to form.

22 A. I have not.

23 Q. From any treaties adopted by forensic
24 accountants?

25 MR. NASKO: Object to form.

1 A. Not that I'm aware of, no.

2 Q. I note, sir, that Mr. Regan in Appendix B
3 of his report lists over six pages with three to
4 four columns in each page all of the documents
5 produced in this case he considered. And this is by
6 contrast with your over five pages with only one
7 column of documents on each page.

8 So is it fair to say you did not review
9 all the documents that Mr. Regan listed that he
10 considered?

11 MR. NASKO: Objection; form.

12 A. I have reviewed all of the documents that
13 he cited to that I have cited to. Cornerstone has
14 reviewed all of the documents within his appendix
15 that I haven't, and I have reviewed some of those,
16 but they have reviewed those under my direction and
17 have provided me any relevant information or
18 observations from their review of that.

19 Q. So you're relying upon Mr. -- I'm sorry,
20 you're relying upon Cornerstone to provide you with
21 relevant documents that Mr. Regan had considered but
22 you did not?

23 MR. NASKO: Object to form.

24 Q. Is that correct?

25 A. That they have reviewed -- I'm relying on

1 their significant experience in this field and
2 experience reviewing documents in support in terms
3 of being able to provide me with any views that
4 would be relevant to my opinion.

5 Q. And you determined that that was the
6 proper procedure, that you didn't need to look at
7 every single document that Mr. Regan looked at?

8 MR. NASKO: Object to form.

9 A. That's correct.

10 Q. Okay. Would you consider that to be a
11 comprehensive analysis of the data?

12 MR. NASKO: Object to form.

13 A. Yes, within -- within the confines of my
14 team that was under my direction, yes.

15 Q. And in paragraph 65(e) of your report, you
16 state that, Mr. Regan has not identified evidence
17 that causes me to believe that KPMG did not conduct
18 their audits and review in compliance with relevant
19 PCAOB auditing standards.

20 Sir, did you understand that Mr. Regan
21 attempted to assess the quality of KPMG's audit?

22 MR. NASKO: Object to form.

23 A. I did not understand that from his report,
24 no.

25 Q. And, therefore, why are you asserting this

[PAGES OMITTED]

1 I'll have marked as Exhibit 815.

2 MR. SCHOCHET: Which is tab 5, Umair.

3 MR. HUSSAIN: The exhibit has been
4 introduced.

5 Q. In the first instance, let me ask you if
6 you have seen this document before, Mr. Fiebig.

7 (Exhibit 815 marked.)

8 A. (Reviewed document.) Not that I recall.

9 Q. And this is an April 2017 Riverstone email
10 containing an engineering report from what appears
11 to be an outside consultant, Chris Widell, correct?

12 MR. NASKO: Object to form.

13 A. I'm sorry, I would have to --

14 Q. Sure. Take a look. Take your time.

15 A. (Reviewed document.) I'm sorry, so I
16 haven't finished reading the full part of it, but
17 what was your question?

18 Q. My question is: This seems to be a --
19 well, it is an April 2017 Riverstone email, correct?
20 I'm sorry, 2017 email; is that correct?

21 A. That's correct.

22 Q. Okay. And it contains an engineering
23 report from what appears to be an outside
24 consultant, Chris Widell; is that correct?

25 MR. NASKO: Object to form.

[PAGES OMITTED]

1 AMR's wells, correct?

2 MR. NASKO: Object to form.

3 A. You know, again, he's applying those to
4 determine his view of the AMR doesn't -- that
5 doesn't necessarily, for me, tie it back to that
6 he's looking at an AMH testing. You know, he may
7 have other industry or other information that he's
8 aware of that's indicating that there's difficulty
9 with it.

10 Q. So you say you haven't seen this document
11 before, correct?

12 A. That's correct.

13 Q. So you don't know one way or the other as
14 to whether or not he was referring to a spacing test
15 at that time?

16 A. I don't.

17 Q. And do you know whether there was spacing
18 tests at that time?

19 MR. NASKO: Object to form.

20 A. As of April?

21 Q. Uh-huh.

22 A. I -- I would have to look back. I don't
23 know as of that date.

24 MR. SCHOCHET: Let's look at another
25 document, please, which we'll mark as Exhibit 816.

1 It's tab 6, Umair.

2 MR. HUSSAIN: The exhibit has been
3 introduced.

4 Q. Sir, your appendix in the back of your
5 report doesn't indicate that you considered this
6 document.

7 Have you seen it before?

8 (Exhibit 816 marked.)

9 A. I don't believe that I have.

10 Q. And this is a June 2017 AMH email among a
11 number of people including Hal Chappelle, Gene Cole,
12 Tim Turner, Mike Ellis, Michael McCabe, and attaches
13 an email from Fred Mueller.

14 In his next-to-last paragraph, sir, you'll
15 see that he states that in his opinion, quote, The
16 down-spaced well patterns influence the data, as it
17 appears that on average, there is some well
18 interference thus less production on a per-well
19 basis. There may also be a negative effect on frac
20 interference on producing wells, as an increased
21 number of wells are drilled resulting in completions
22 that are closer to producing wells.

23 Do you have any reason, sir, to believe
24 that KPMG saw this document?

25 MR. NASKO: Object to form.

[PAGES OMITTED]

1 would be no, I don't understand that to be the case.

2 Q. Did you know that there was a deposition
3 of a 30(b)(6) witness for Ryder Scott, Miles Palke?

4 A. I am aware of that.

5 Q. I notice in your Appendix A that you don't
6 show his deposition.

7 Did you review it?

8 A. I did not personally review it, but it was
9 reviewed by Cornerstone -- Cornerstone.

10 Q. To the extent that you're relying upon
11 Ryder Scott in your assessment of Mr. Regan's
12 report, why did you not personally read Mr. Palke's
13 deposition?

14 MR. NASKO: Object to form.

15 A. Just made a judgment on -- based on the
16 information that I had seen in reading their report
17 and, you know, reliance on the experience and
18 knowledge of the Cornerstone staff who did review
19 it.

20 MR. SCHOCHET: Let's introduce as
21 Exhibit 819 Mr. Palke's deposition transcript.
22 Tab 13.

23 MR. SALDAMANDO: Umair, this is tab
24 13.

25 Q. I take it you have not seen this document

[PAGES OMITTED]

1 number 4 used. I'm not sure I see -- perhaps they
2 started with it but they also asked the question of
3 is it 6 or 8 or 12.

4 Q. Let me just ask bottom line question: You
5 don't have any understanding that Ryder Scott only
6 looked at four -- four wells per section?

7 MR. NASKO: Object to form.

8 A. No, I don't know that that's my
9 understanding based on the work that they performed.

10 Q. Okay. Let's go to page 49, please. Tell
11 me when you're there.

12 A. Yes.

13 Q. Line 4, it says, question: The first file
14 in your Marked Exhibits folder should now be filed
15 Exhibit 3. And the rest of it says -- he answers:
16 I see that.

17 If you could open that up.

18 I have it open.

19 Did you review this email chain or any
20 part of this email chain when you were preparing for
21 your deposition today?

22 And he said: Yes, I have seen this chain.

23 Did you end up speaking with Mr. Zajac
24 around this time?

25 Answer: I believe we had a

[PAGES OMITTED]

1 rocks and the different zones and what have you, you
2 know, how they would have or where they would have
3 considered that.

4 Q. Do you know whether or not there was any
5 evidence in the record on the issue of whether or
6 not Ryder Scott tested the reasonableness of the
7 three -- three benches?

8 MR. NASKO: Object to form.

9 A. Again, not having a full understanding of
10 all the test work that they did to come to their
11 conclusion. Again, I do think that they -- start
12 again.

13 I'm not aware of all the inputs and all
14 the evaluations that went into their determination
15 of their audit opinion.

16 Q. So you're not aware of whether or not
17 there's any evidence on that issue as to whether or
18 not Ryder Scott looked at the reasonableness of the
19 three bench -- three bench assumption?

20 A. Any evidence within --

21 MR. NASKO: Object to form; asked and
22 answered.

23 A. -- within the record?

24 Q. Uh-huh.

25 A. Not that I can recall at this point.

[PAGES OMITTED]

1 A. In general terms, yes.

2 Q. Let me show you another document that
3 Mr. Regan considered and that is not listed in your
4 documents reviewed. It is -- I'll mark it as
5 Exhibit 821.

6 MR. SCHOCHET: And it's tab 10, Umair.

7 MS. WALLER: Take a quick break?

8 MR. SCHOCHET: After this document,
9 yes.

10 MS. WALLER: Are you okay?

11 THE WITNESS: Yes.

12 (Exhibit 821 marked.)

13 Q. Sir, let me first ask you: Did you see
14 this document before?

15 MR. HUSSAIN: The exhibit has been
16 introduced.

17 A. Not that I recall.

18 Q. And it's dated April 16, 2018, almost a
19 month before that representation by Mr. Chappelle of
20 at least 8 percent recovery rate that he said was
21 the basis of many of their assumptions. And these
22 are emails among Tim Turner, Mike Ellis, Gene Cole,
23 and Kevin Bourque, and the subject matter of the
24 emails is Pattern Analysis.

25 Do you see that?

[PAGES OMITTED]

1 Q. Yes.

2 Recall, again, it includes a table showing
3 the results of five pattern tests with all but the
4 two having only three wells per space having EURs
5 only a fraction of the type curve; is that correct?

6 MR. NASKO: Object to form.

7 A. I see the amounts that are listed in the
8 EUR/type column.

9 Q. And references the spacing being too
10 tight, correct?

11 MR. NASKO: Objection; form.

12 A. This is in regards to EHU and Bullis
13 Coleman?

14 Q. Yes -- well, it's a reference to the
15 overall assessment by Mr. Turner.

16 MR. NASKO: Objection; form,
17 mischaracterizes the document.

18 Q. Well -- and he does refer to EHU and
19 Bullis Coleman, yes.

20 MR. NASKO: Objection; form.

21 A. Okay.

22 Q. Now, you reviewed the transcript of
23 Mr. Knupp, correct?

24 A. Yes.

25 Q. And you're opining that the TPH

1 presentation was contrary evidence specifically to
2 Exhibit 818; is that correct?

3 A. Again, I don't think that's what I say in
4 my opinion. I indicate that he cites that
5 communication but fails to address the TPH
6 presentation that included the assumptions from that
7 exceeded those attributed to Alta Mesa. I think he
8 was using this to say that the -- that he hasn't
9 reconciled his conclusions to the TPH report.

10 Q. But you knew, Mr. Fiebig, that TPH
11 expressly denied ever having access not only to this
12 document, 818, but the information contained in it,
13 right?

14 MR. NASKO: Objection; form.

15 A. That they have expressly denied that, is
16 that within...

17 Q. I'm just -- having reviewed the
18 transcript, you knew that TPH expressly denied ever
19 having access to what's Exhibit 818 and the
20 information that's contained in it, right?

21 MR. NASKO: Objection; form, --

22 A. I don't --

23 MR. NASKO: -- mischaracterizes the
24 document.

25 A. Again, I don't specifically recall that

1 representation in it.

2 Q. Let's go to page 166.

3 A. Okay.

4 MR. NASKO: Feel free to take as much
5 time as you need --

6 THE WITNESS: Okay.

7 MR. NASKO: -- to get the context of
8 the document and the context of these questions that
9 we're jumping around to.

10 THE WITNESS: Yeah.

11 Q. And tell me when you're there.

12 A. Okay.

13 Q. Are you there?

14 A. Yes.

15 Q. Okay. Look at, please, lines 2 to 15.

16 And Mr. Knupp says: I see the exhibit.

17 And then the question is: I would ask you
18 if you recognize it but you're not on it. I will
19 briefly describe it for the record. It's an email
20 between Mr. Bourque, and Mr. Turner, Mr. Chappelle,
21 Ellis and Cole at Alta Mesa. Subject line is re:
22 Food for Thought. And it describes the performance
23 of some wells.

24 First, I should point out that it's dated
25 June 6, 2017. And it describes the performance of

1 some wells, along with their spacing and how they're
2 matching up against a type curve.

3 Do you see that data?

4 Would you agree that the questioner at
5 Mr. Knupp's deposition was referring to Exhibit 818?

6 A. I believe it is.

7 Q. Now let's look at page 167 -- from the
8 point at which we left off until -- until the point
9 which I'm going to direct you to on page 167,
10 there's a lot of colloquy about what's in the
11 document.

12 So I'm asking you, though, on page 167,
13 lines 22 to 25, has a question: Did TPH have access
14 to this data -- to the data, sir?

15 And Mr. Knupp says: I don't recall seeing
16 this.

17 Do you see that, sir?

18 A. I do.

19 Q. So I asked you when critiquing Mr. Regan
20 whether Mr. Regan should have considered the TPH
21 presentation specifically when determining whether
22 Exhibit 818 is undermined by it.

23 Why did you not mention that TPH was never
24 provided with the data in that document?

25 MR. NASKO: Objection; form.

1 A. I mean, he's basically saying I don't
2 recall, but I don't think that it says he was
3 specifically denied access to that.

4 Q. If you look at page 168. And Mr. Knupp
5 says: This appears to be a very specific analysis.
6 So we would request types of analysis. This is a
7 very specific and bespoke piece of evidence. So I
8 would not say that this is -- there is no way that
9 this would be typical of something we request
10 because this is very specific and unique.

11 Question: If you received the
12 information -- let's stop there.

13 Do you believe, based upon this testimony,
14 that Mr. Knupp did not see this document?

15 MR. NASKO: Objection; form.

16 A. Again, the document or relevant data that
17 was used to prepare the document, I can't tell based
18 on his, you know, view that they have what the
19 request was but that they had submitted a request.
20 So I don't know that I have an answer to that.

21 Q. Well, Mr. Knupp is saying that he doesn't
22 recall seeing the data. That was -- the question
23 was asked: And do you have access to the data?

24 He said: I don't recall receiving --
25 seeing this.

1 So my question is to --

2 MR. NASKO: Objection.

3 Q. -- why did you not mention Mr. Knupp's
4 testimony in your comparison of Mr. Regan's use of
5 Exhibit 818 with the TPH presentation?

6 MR. NASKO: Objection;
7 mischaracterizes testimony.

8 A. So I think my criticism is that, you know,
9 he didn't reconcile or didn't evaluate the
10 presentation. This might have been one aspect of
11 it, but it doesn't mean that that presentation
12 itself was improper, inappropriate, unsupported but
13 that it was contradictory evidence that existed that
14 I don't see him performing any analysis of.

15 Q. Was it objective not to have mentioned
16 this fact that -- when critiquing Mr. Regan's use of
17 Exhibit 818 with the TPH presentation, you didn't
18 mention that, though, TPH did not have access to the
19 data within Exhibit 818?

20 MR. NASKO: Objection; form.

21 MS. WALLER: Mischaracterizes the
22 documents and the testimony.

23 A. You said was it an objective? Can you ask
24 the question again?

25 Q. Was it objective on your part to not

[PAGES OMITTED]

1 A. I don't see his review of that. I don't
2 see his evaluation of the process to determine what
3 the projections are, the model or whatever that is
4 used. And while he points to, you know, emails and
5 other information about what are purported to be
6 inputs or parts of the projections, I don't see how
7 he's evaluated the relevance or how those affect the
8 projections and how a change in whatever those may
9 be would result in a -- what change or what effect
10 those would have to the projections.

11 Q. Is there a specific document you reviewed
12 that would be -- that would lend you to believe
13 that -- this contrary evidence to Mr. Regan's
14 analysis and conclusions?

15 MR. NASKO: Objection; asked and
16 answered.

17 A. I think my -- I'm sorry, can you ask that
18 question again.

19 Q. Yeah. Is there a single piece of evidence
20 that you're aware of that would reflect evidence
21 that's contrary to Mr. Regan's analysis and
22 conclusions?

23 MR. NASKO: Objection; asked and
24 answered.

25 A. I would have to go back and look at some

1 of his report to understand some of the conclusions
2 that he has made. But I do think that he tends to
3 take the emails and other information that he uses
4 out of context or without providing context, excuse
5 me, in terms of -- you know, that that means that
6 the projections were misstated that there was some
7 back-and-forth email, if you will, between the
8 people involved in determining or preparing the
9 projections and that that somehow resulted in them
10 being incorrect or what have you.

11 What I don't see and I think what I
12 address in my opinion is that there's not a context
13 provided into, you know, what those changes are that
14 are being made, how they affect the projections, and
15 how they are -- how they reflect what management's
16 plans are relative to the operation of the business.

17 Q. Did you review that context -- that
18 information and find anything that would be -- that
19 would reflect anything that's contrary to the
20 assertions made by Mr. Regan in his report with
21 respect to the projections?

22 MR. NASKO: Object to form.

23 A. I think my opinion is based on the fact
24 that he comes to conclusions based on these emails
25 or portions of emails that are back and forth

1 between the people that are preparing the
2 projections and takes that to conclude that the
3 projections therefore aren't fairly stated or based
4 on the best currently available information.

5 Q. And my question to you is have you seen
6 any evidence to show that Mr. Regan is taking those
7 emails out of context?

8 MR. NASKO: Objection to form.

9 A. I don't see any evidence to see the
10 context with which he's considered those other than
11 that the emails themselves he's looking at without
12 really understanding. And I think at the core of
13 what I think I have tried to say is that he's taking
14 that and not further evaluating the context or the
15 impact of these changes and discussions that are
16 being had. And so I don't see him evaluating that
17 context for me to have identified any information
18 that would be contrary to a context that he may be
19 using.

20 Q. And, again, I'm asking you if you've
21 reviewed that context and found that there was
22 something that he missed, that Mr. Regan missed that
23 would show that his consideration of those emails
24 and the information in those emails was
25 inappropriate --

1 MR. NASKO: Objection; asked and --

2 Q. -- and did not support his conclusions?

3 MR. NASKO: Objection; asked and
4 answered.

5 A. I would have to go back and look at some
6 of the emails that he refers to. And, you know, let
7 me just see if I can identify where --

8 Q. Yeah. And my next question is going to
9 refer to -- them to you, so why don't we do that if
10 you don't mind.

11 A. Uh-huh.

12 Q. So in paragraphs 62 to 73, he presents a
13 number of documents all dated before the business
14 combination. And in support of his conclusion in
15 paragraph 73 that the AMH 2018 EBITDA projections
16 appear to have been prepared in a results-driven
17 manner and it was viewed internally as aggressive
18 and likely unachievable. As such, they were not
19 prepared using management's best current estimates.

20 And as to this data cited in those
21 paragraphs, you don't address any of it in any
22 specific way, do you?

23 MR. NASKO: Objection;
24 mischaracterizes the underlying document.

25 A. If you'll allow me to read 62 through 73.

[PAGES OMITTED]

1 come to this conclusion that it's aggressive and
2 likely unachievable, it doesn't evaluate the
3 underlying assumptions that are used to get to this
4 and how those reflect what is being planned by
5 management.

6 You know, the -- the back-and-forth with
7 management and with the person preparing, you know,
8 discusses changes to the projections that are made
9 as a result of their expectation, and what I don't
10 see in his analysis that he has brought those
11 discussions back to and therefore this was the
12 change that was made in the projection and this is
13 the assumption that management -- that was
14 unachievable or management was unable to -- did not
15 have it within their plan or didn't, you know, have
16 within their plan to carry out those plans that
17 would have resulted in the projected EBITDAX.

18 Q. And, sir, what information did you review
19 and analyze that you claim Mr. Regan failed to
20 analyze that would have put these emails into better
21 context?

22 MR. NASKO: Objection; asked and
23 answered.

24 A. You know, I was aware that there -- within
25 some of the record there were -- there were details

[PAGES OMITTED]

1 have evidence of them.

2 Q. Well, do you have any other examples?

3 MR. NASKO: Objection; form.

4 A. I guess examples in what regard? I'm
5 sorry. I'm really having trouble following the --

6 Q. You accuse Mr. Regan of hindsight bias and
7 you gave as an example in those over 20 paragraphs
8 one email that was dated after the issuance of the
9 January proxy. I'm asking if you have any other
10 examples with regard to the KFM projections.

11 MR. NASKO: Objection; form.

12 A. Again, I would have to -- I would have to
13 consider it. Off the top of my head, I'm not -- I'm
14 not coming up with one.

15 Q. So tell me, with respect to the KFM
16 projections -- and you had referred to a broader
17 context -- can you tell me any specific relevant
18 facts that is contrary to Mr. Regan's conclusions
19 with regard to the KFM projections?

20 MR. NASKO: Objection; form.

21 A. You know, I think my opinions speak to his
22 analysis and that he has not analyzed sufficient
23 relevant data in coming to his conclusions. And,
24 you know, I think -- I think when you look at my
25 paragraph 52, I think his representation as to

[PAGES OMITTED]